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July 31, 2001

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Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

Re: Comments of CenturyTel, Inc. in CC Docket Nos. 96-45 and 00-256

Dear Ms. Salas:

Enclosed on behalf of CenturyTel, Inc. are and original and six copies of Comments of CenturyTel, Inc. on the Petitions for Reconsideration filed in the above-referenced dockets.

In the event there are any questions concerning this matter, please let me know.

Sincerely yours,

Richard R. Cameron
of LATHAM & WATKINS

Enclosures

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JUL 31 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Federal-State Joint Board on Universal Service	))	CC Docket No. 96-45 CC Docket No. 00-256
	)	
Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers	))))	ORIGINAL

Comments of CenturyTel, Inc.

CenturyTel, Inc. ("CenturyTel"), through its attorneys, hereby offers the following Comments on Petitions for Reconsideration filed in the above-captioned proceedings by the National Telephone Cooperative Association (NTCA) and the Coalition of Rural Telephone Companies (CRTC).

I. INTRODUCTION

In May of this year, the Commission released the RTF Order,[1] which modified the rules for providing high-cost universal service support to rural telephone companies for the next five years based on proposals made by the Rural Task Force. CenturyTel filed comments in that proceeding generally supporting the Rural Task Force Plan.

CenturyTel, headquartered in Monroe, Louisiana, is a leading provider of integrated communications services to rural markets. CenturyTel provides a variety of high-quality communications services to nearly 3 million customers in rural communities in 21 states, including local exchange and advanced services, wireless service, long distance, security

[1] *In the Matter of Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 96-45, CC Docket No. 00-256, Fourteenth Report and Order, Twenty-Second

monitoring, information services, and broadband and dial-up Internet access. Overall, CenturyTel's rural telephone companies provide local exchange telephone service to 1.8 million access lines, but approximately half of its exchanges have fewer than 1,000 access lines each. Very few of its exchanges have greater than 10,000 access lines. All of CenturyTel's operating companies meet the statutory definition of a "rural telephone company."[2]

II. DISCUSSION

A. NTCA Petition

In the RTF Order, the Commission adopted a safety valve mechanism, which provides additional high-cost support to rural carriers that purchase high-cost exchanges and make post-acquisition investments to improve the network infrastructure.[3] The safety valve mechanism provides for up to 50 percent of any positive difference between the purchasing carrier's index year expense adjustment at the end of its first year of operations and subsequent year expense adjustments.[4]

In its Petition for Reconsideration, NTCA requests that the Commission amend its rules to permit acquiring carriers to receive safety valve support for first year investments in newly acquired exchanges.[5] Specifically, NTCA proposes that the Commission define the index year expense adjustment as the selling carrier's expense adjustment at the time of the sale. The acquiring carrier's first year expense adjustment for the new exchanges then would be compared to the seller's index year expense adjustment in order to determine safety valve support for the first year of operation. The expense adjustment for subsequent years would be compared to the

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Order on Reconsideration and Further Notice of Proposed Rulemaking and Report and Order (rel. May 23, 2001) ("RTF Order").

2 47 U.S.C. § 153 (37).

3 RTF Order at ¶¶ 91-119.

4 *Id.* at ¶ 99.

acquiring carrier's first year expense adjustment, which would serve as the new index year expense adjustment.

CenturyTel supports NTCA's proposed rule change. Under the Commission's current rule, the acquiring carrier receives no safety valve support for the first year investment. Moreover, as Legg Mason has noted, the safety valve mechanism has the perverse effect of inducing carriers to postpone investment until the second year of operation in an effort to keep the first index year expense adjustment low with a more pronounced difference in subsequent years, which will yield higher support payments.[6] Use of the seller's carrier index year expense adjustment for first year investment, however, promotes investment in rural exchanges immediately following acquisition of the new exchanges. Although most of the rules adopted in the RTF Order encourage rural investment, failure to permit acquiring carriers to receive safety valve support for first year investment has the effect of discouraging immediate post-acquisition investment in newly acquired exchanges.

The Commission should amend its safety valve rules to promote rural investment during the first year of operation. CenturyTel, since it acquired new local exchanges in Arkansas, Wisconsin and Missouri in the third quarter of last year, has upgraded old and inefficient equipment, and invested in improved customer service and back-office operations. Whether to make these and similar investments immediately or to take a year to evaluate where investments should be made are business decisions for the acquiring company to make – not the Commission. The Commission's rules should encourage rural investment in the first year of operation. By adopting NTCA's proposed rule change, the Commission will better ensure that

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5 NTCA Petition for Reconsideration (filed July 5, 2001) at 4-8.

6 *FCC Issues Text of Universal Service Order*, Legg Mason Equity Research Industry Update, (released May 25, 2001).

safety valve support truly reflects investments in newly acquired exchanges and will encourage acquiring carriers to provide customers living in oft-neglected exchanges with improved services within the first year of operation.

Having purchased hundreds of thousands of rural exchange lines from larger carriers, CenturyTel has observed that rural exchanges often are in areas where selling carriers have invested the least; thus, significant improvements to the infrastructure often are needed following the transfer. Moreover, a year or more may sometimes lapse between the time that the seller decides to sell the exchanges and actual closing, which allows the exchanges to fall into further decline. By delaying the distribution of safety valve support for a year, the Commission's current rules simply encourage further neglect of rural exchanges following transfer. Rather, the Commission's rules should encourage acquiring carriers to begin providing improved services to rural customers immediately following acquisition.

Rural customers reap many benefits from the sale of rural exchanges. For example, in an effort to upgrade rural exchanges that it acquired last year, CenturyTel has spent nearly $46 million in Arkansas, $27 million in Wisconsin, and almost $19 million in Missouri since the third quarter of last year. As a result of these investments, rural customers in Arkansas, Wisconsin, and Missouri now have the benefit of additional and improved services, such as digital subscriber line (DSL) and local dial-up Internet access, voice mail, caller ID, and other services, in addition to newly-staffed local customer service call centers. These are the types of consumer benefits that Section 254 and the Commission's rules are intended to promote. Carriers that make investments in rural exchanges should receive support for such investments regardless of whether the investments are made in the first year of operation or thereafter.

Additionally, state commissions that are aware of past infrastructure neglect by larger selling carriers, may request or require companies buying those properties to make needed investments, replace switches, deploy broadband or meet higher service quality standards. For example, as a part of CenturyTel's acquisition of several rural exchanges from a large carrier, the Wisconsin state commission required CenturyTel to replace the seller's outdated switches, as one of the conditions on its approval of the transfer.

The Commission's safety valve formula, moreover, prevents rural carriers from taking full advantage of the safety valve support that otherwise could be available to them. In part, because the current formula for determining safety valve support does not allow carriers to receive support for first year investments, only a small fraction of the safety valve support available is likely ever to be actually distributed. As Legg Mason noted in a recent presentation to the United States Telecom Association, assuming that no additional lines are sold between 2003 and 2005, rural carriers could receive only about 10% of the available safety valve funds, under the current safety valve formula.[7] Even if 1 million lines are sold annually from 2003 to 2005, carriers could receive less than 25% of the support available.[8] Accordingly, the safety valve mechanism, as currently crafted, does not provide a meaningful incentive for carriers to invest in neglected rural exchanges. Moreover, the formula does not permit carriers to maximize the benefits the Commission intended the safety valve mechanism to have on investment decisions. If, however, as NTCA proposes, the Commission were to permit carriers to receive support for investments made in the first year, carriers would be able to take greater advantage of the safety valve funds available. CenturyTel urges the Commission to revise the formula for

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7 *Universal Service Rural Task Force Order, Implications for M&A*, by Michael J. Balhoff, CFA, Managing Director, Legg Mason (presented June 19, 2001) at 7 (Attachment 1).

8 *Id.*

determining safety valve support such that acquiring carriers are permitted to receive support for first year investments.

CenturyTel fully supports the NTCA proposal to use the seller's costs as an interim baseline to compensate safety valve support during the first year following an acquisition of rural lines by a rural carrier. CenturyTel believes that the limitations that NTCA proposes will ameliorate any threat to the universal service fund that use of the seller's costs might otherwise create.

B. CRTC Petition

In the RTF Order, the Commission also concluded that a mobile wireless carrier may use a customer's billing address to determine the disaggregation zone in which the customer is located for the purpose of receiving high-cost support for service provided to that customer.[9] The Commission further concluded that "a mobile wireless customer's billing address is a reasonable surrogate for the customer's address for assigning the customer's location to a wire center in a non-rural carrier's study area to target universal service support."[10]

In its Petition for Reconsideration, CRTC argues that the Commission should adopt a rule that defines the relevant service area for wireless service provided to mobile customers for the purpose of receiving universal service support for that customer.[11] CRTC opposes the use of a mobile customer's billing address for identifying service location because it encourages competitive eligible telecommunications carriers (ETCs) to abuse the rule in order to receive a higher level of per-line support by identifying customers with billing addresses in high-cost zones when, in fact, they primarily use the mobile service in low cost zones.

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9 *Id.* at ¶ 180.

10 RTF Order at ¶ 184.

11 CRTC Petition for Reconsideration (filed July 5, 2001) at 3-6.

CenturyTel agrees with CRTC that the Commission should adopt a rule that defines the actual service area or relative proration across multiple services areas for mobile customers that use their service across wide geographic areas. The current rule is insufficient because the service area for a mobile wireless customer's billing address may bear no relationship to the location where service is actually taken. Indeed, mobile wireless service by its very nature allows customers to take service across large geographical areas that may include multiple service areas, thereby making the task of assigning the customer's location to a single wire center nearly impossible.

Furthermore, as CRTC points out, the amount of support that an ILEC receives, which is calculated on a per-loop basis, may differ significantly from one service location to the next. CenturyTel cautions the Commission that a competitive ETC may experience a windfall under the current customer location rule if the competitive ETC receives high-cost support based on the ILEC's higher average costs of the service area in which the customer's billing address is located, while service actually is used primarily in a relatively low-cost area. This result will fail to advance the policy goals of Section 254. First, it may create uneconomic incentives for competitive entry. Second, it may result in support not being used for the purposes for which it was intended. For example, in an effort to obtain high-cost support, a competitive ETC may employ marketing tools that encourage customers conducting business principally in urban or other low cost areas to list locations in higher-cost areas as their billing address. Third, it may result in excessive support being provided to the high-cost area and insufficient support being provided to the lower cost area. The Commission should adopt a rule that ensures that high-cost support induces proper economic incentives to enter a particular market, is sufficient, and is appropriately directed to customers that actually take service in high-cost areas.

To ensure that high-cost support is directed to customers taking service in high-cost areas, CenturyTel proposes that the Commission adopt a rule that places the burden on the competitive ETC to monitor customer usage. Under this proposal, customers that exceed prescribed out-of-area usage limits would have their service reclassified as ineligible for univeral service support. A similar solution is currently under consideration in New Mexico. There, Smith Bagley, a competitive ETC providing wireless service in New Mexico, has entered into a stipulation with staff of the New Mexico Public Regulation Commission that it would curtail primary usage of subsidized mobile wireless service outside of the ETC service area by monitoring customer usage through its billing software and switch.[12] Subscribers taking Smith Bagley's basic universal service plan must use at least 75 percent of the minutes included in the basic universal service plan within Smith Bagley's ETC service area. If a subscriber who takes the basic universal service plan uses more than 25 percent of the minutes outside the ETC area for which support is intended, Smith Bagley ultimately could suspend service, although the subscriber would retain the option of using the phone for emergency and prepaid calls. By suspending the service of those subscribers who do not primarily use service its ETC service area, Smith Bagley would ensure that it directs high-cost funds to those subscribers for whom high-cost universal service support is intended. CenturyTel supports the adoption of a similar rule nationwide, which would require a competitive ETC providing mobile service to monitor customer usage and reclassify service, when appropriate.

12 *Application of Smith Bagley, Inc. for Designation as an Eligible Telecommunications Carrier under 47 U.S.C. § 214(e)(2)*, Stipulation, Utility Case No. 3026 (filed July 10, 2001) (Attachment 2).

III. CONCLUSION

For the aforementioned reasons, CenturyTel supports NTCA's and CRTC's Petitions for Reconsideration of the RTF Order. CenturyTel respectfully requests that the Commission amend its rules to permit an acquiring carrier to receive safety valve support for first year investments. CenturyTel also urges the Commission to adopt a rule that requires CMRS carriers to monitor customer usage to ensure that universal service support is directed those areas for which high-cost support is intended.

Respectfully submitted,
CENTURYTEL, INC.

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Counsel for CENTURYTEL, INC.

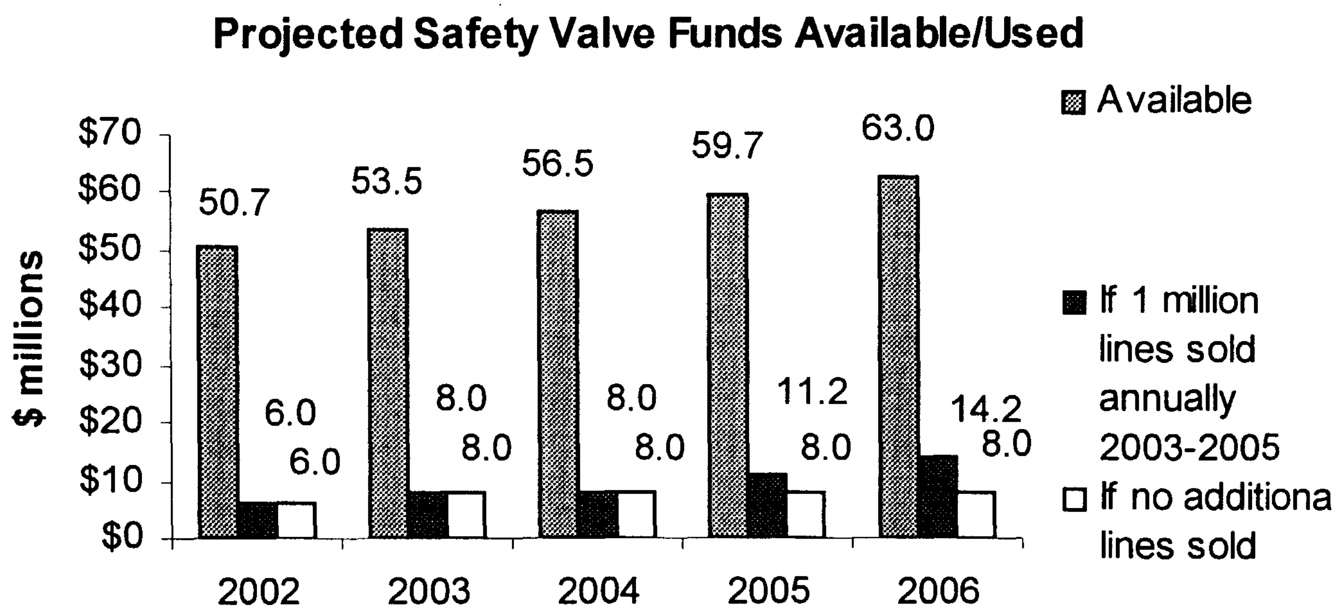
*Admitted in Georgia only. Bar application in the District of Columbia pending.

John F. Jones
Vice President, Federal Government Relations
CENTURYTEL, INC.
100 Century Park Drive
Monroe, Louisiana 71203
(318) 388-9000

July 31, 2001

ATTACHMENT 1

Commitment to Acquired Properties—Safety Valve



- Adopted RTF proposal
- Attempt to redress "parent trap" inequities
- Mechanism incents limited loop investment in first year
- Our estimates suggest little recovery over 5 year plan

ATTACHMENT 2

"EXHIBIT A"

BEFORE THE NEW MEXICO PUBLIC REGULATION COMMISSION

APPLICATION OF SMITH BAGLEY, INC. FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER UNDER 47 U.S.C. § 214(e)(2)	)))))	Utility Case No. 3026

STIPULATION

Smith Bagley, Inc. ("SBI") by its counsel, and the Staff of the New Mexico Public Regulation Commission ("Staff") hereby enter into the following Stipulation in order to resolve certain outstanding issues in the above-captioned proceeding. The parties submit this Stipulation for approval by the Public Regulation Commission ("PRC") pursuant to 1.2.23 of the Commission's Rules, 17 NMAC 1.2.23. In support of this Stipulation, the following is respectfully shown:

I. ETC Service Area Boundary.

1. In its above-captioned application, SBI proposed that its Eligible Telecommunications Carrier ("ETC") service area be defined as the boundaries of the Zuni and Ramah reservations. Following discussion among the parties, SBI has agreed to modify its ETC service area boundary, and make commercially reasonable efforts to serve complete wire centers as follows:

A. SBI's ETC service area shall be defined to include the Zuni, Ramah, and Fence Lake wire centers. In addition, SBI's ETC service area shall be defined consistent with that portion of its existing service contour within the Pine Hill, Vanderwagn, Gallup and Grants wire centers. A map depicting SBI's ETC service area is attached hereto as Exhibit A.

B. For potential subscribers residing in the Northern portion of the Vanderwagn wire center and Southeast portion of the Pine Hill wire center, outside SBI's operating service area, SBI agrees to use commercially reasonable efforts to attempt to arrange for the provision of wireless communications service through the A-Side cellular telephone carrier licensed to service that area.

2. The parties agree that amending SBI's ETC service area and encouraging SBI to attempt to provide service throughout the Vanderwagn and Pine Hill wire center will alleviate concerns about cream skimming and administrative burden. Specifically, the designation of ETC status throughout the Zuni, Ramah, and Fence Lake wire centers, and in approximately 89% of the remaining wire centers[1] will ensure that SBI's Basic Universal Service ("BUS") offering will be made available throughout the widest possible area. This alleviates the concern that SBI's service is targeted to only lower cost portions of affected wire centers.

3. The parties recommend that the PRC disaggregate the incumbent LEC service area ~~along a wire center boundaries~~ TO ENCOMPASS THE PECOS EXCHANGE AS ONE SERVICE AREA AND THE REMAINING EXCHANGES AS A SECOND SERVICE AREA. Since SBI's service will closely follow ~~wire center~~ SERVICE AREA boundaries, there is no concern that the incumbent LEC would accrue any additional administrative burden with respect to calculating appropriate high cost loop support.

II. Mobility

4. In its application, SBI proposed to permit a subscriber taking SBI's basic universal service ("BUS") offering to be able to use its phone throughout SBI's entire network. The parties discussed two concerns. First, the possibility that universal service subscribers who reside outside of the ETC service area will fraudulently take SBI's BUS offering, which is limited to residents within the ETC service area. Second, the possibility that BUS subscribers will use their phones excessively outside the authorized ETC service area. In order to alleviate these concerns,

[1] SBI estimates that its ETC service area will encompass 89.1% of the geographic area and 96.9% of the population of the Pine Hill wire center as well as 88.5% of the geographic area and 90.9% of the population of the Vanderwagn wire center.

SBI agrees to the following conditions and further agrees to implement certain measures as set forth below:

A. BUS customers must use at least 75% of the minutes included in SBI's BUS plan within SBI's ETC service area.

B. When a BUS customer uses more than 25% of its included minutes outside of SBI's ETC service area in any month, SBI will promptly notify the customer as follows:

i. A voice prompt generated by SBI's prepaid system will inform the customer before completing a call in the following month;

ii. A telephone call from an SBI customer service representative explaining that the customer has exceeded the plan limits; and

iii. SBI will mail an explanatory letter to the customer.

This first notification shall explain the program requirements and inform the customer that failure to comply three times within twelve months will result in discontinuance of universal service subsidies.

C. When a BUS customer uses more than 25% of its included minutes outside of SBI's ETC service area a second time within the first year of the contract, SBI will promptly notify the customer in the same manner as provided above. This second notification shall serve as a disconnect notice to the subscriber. The notice shall state clearly that if the subscriber fails to comply a third time within twelve months that Lifeline subsidies will be discontinued. The notice shall also state that in the event Lifeline subsidies are discontinued, the customer may, (i) disconnect service, (ii) pay full price for the service and move to a post-paid payment plan (if creditworthy), or (iii) continue as a prepaid subscriber, receive zero included minutes in future months, use the phone for emergency (911) calls, and retain the ability to purchase prepaid minutes for use.

D. When a BUS customer uses more than 25% of its included minutes outside of SBI's ETC service area a third time within the first year of the contract, SBI will promptly notify the customer in the same manner as provided above. This third notification shall state that Lifeline service has been suspended for the remainder of the first year of the contract. SBI shall provide the customer with one of the three options set forth above. If the subscriber fails to choose an option, SBI shall keep the subscribers phone active, but remove the 200 included minutes during the suspension period. This will permit the subscriber to use the phone for emergencies and to purchase prepaid minutes. If the subscriber moves to a retail rate plan, SBI shall credit any prepaid access charges against the first month's service charges. If the subscriber discontinues service or continues service with zero included minutes, SBI shall refund any prepaid access charges.

E. SBI shall not include the loops of suspended BUS customers in its periodic loop count reports to USAC.

F. If a BUS customer's service is suspended, SBI may restore Lifeline support at the conclusion of the first year of the contract. During the second year of the contract, the same procedures set forth above shall apply. If a BUS customer is suspended a second time, it shall not be eligible for reinstatement to the Lifeline program for twelve months.

III. General Terms

5. This Stipulation represents a settlement and compromise of claims and accordingly this Stipulation is made for settlement purposes only. No party concedes the validity or correctness of any regulatory principle or methodology directly or indirectly incorporated in this Stipulation. No precedential effect or other significance, except as may be necessary to enforce this Stipulation or a PRC order concerning this Stipulation, shall be attached to any principle or methodology contained in this Stipulation.

6. All witnesses of the parties will support all aspects of the Stipulation embodied in this document in any hearing conducted to determine whether the PRC should approve this Stipulation. Each party also agrees that, except as expressly provided in this Stipulation, it will take no action in any administrative or judicial proceeding, which would have the effect, directly or indirectly, of contravening the provisions of this Stipulation. Without prejudice to the foregoing, the parties expressly reserve the right to advocate positions different from those stated in this Agreement in any proceeding other than one necessary to obtain approval of, or enforce this Stipulation or a PRC order approving this Stipulation. Nothing in this Stipulation shall

constitute a waiver by any party with respect to any matter not specifically addressed in this Stipulation.

7. This Stipulation shall not become effective until the PRC issues a final order approving the Stipulation, which order does not contain any modification of the terms and conditions of this Stipulation that is unacceptable to any of the parties to the Stipulation. In the event the PRC modifies this Stipulation in a manner unacceptable to any party hereto, that party may withdraw from the Stipulation and shall so notify the PRC and the other parties to the Stipulation in writing within ten (10) days of the date of the PRC order. In the event a party exercises its right to withdraw from the Stipulation, this Stipulation shall be null and void and of no effect in this or any other proceedings.

8. In the event this Agreement becomes null and void or in the event the PRC does not approve this Stipulation, this Stipulation, as well as the negotiation undertaken in conjunction with the Stipulation, shall not be admissible into evidence in these or any other proceedings.

9. Should the FCC adopt any service requirements which conflict with this Stipulation, the FCC's rules shall control. SBI reserves the right to apply to the PRC to amend these terms if they prove to be administratively burdensome or fail to accomplish their intended purposes.

10. The parties state that they have reached this Stipulation by means of a negotiated process that is in the public interest, and that the results reflected in this Stipulation are just, reasonable and in the public interest. Approval by the PRC of this Stipulation shall constitute a determination that the Stipulation represents a just, equitable, and reasonable resolution of the issues addressed herein.

11. This Stipulation is an integrated agreement that may not be altered by the unilateral determination of any party.

12. This Stipulation may be executed in separate counterparts, including facsimile. The counterparts taken together shall constitute the Stipulation. The parties represent that the signatories to the Stipulation have full authority to bind their respective parties to the terms of the Stipulation.

WHEREFORE, the parties respectfully submit this Stipulation for approval by the PRC and request that the PRC grant such approval.

SMITH BAGLEY, INC.

By: ______________________
Richard Watkins
Its Authorized Representative

STAFF OF THE NEW MEXICO
PUBLIC REGULATION COMMISSION

By: ______________________

CERTIFICATE OF SERVICE

I Lorraine W. Self hereby certify that I have this day caused the forgoing comments of CenturyTel, Inc. to be served in accordance with the Commission's Rules of Practice and Procedure Section 1.429(e).

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